REMARKS

1. Amendments to the claims

Claims 1, 3-6, 10-11, 14, and 18-20 are pending in the application. With the present response, Applicants amend claims 1 and 20 and add new claims 21 and 22.

Support for amended claim 1 can be found, for example, on page 4, lines 1-21, and from page 8, line 5, to page 9, line 11, of the application as filed. Support for amended claim 20 can be found, for example, from page 9, line 13, to page 10, line 9, of the application as filed.

Support for new claim 21 can be found, for example, on page 4, lines 1-21, and from page 8, line 5, to page 9, line 11, of the application as filed.

Support for new claim 22 can be found, for example, from page 9, line 13, to page 10, line 9, of the application as filed.

2. 35 USC 103 (a)

2.1) In section 4 of the Action mailed February 18, 2011, the Examiner rejects claims 1, 3-6, 14, 19, and 20 under 35 U.S.C. 103(a) as being unpatentable over Magnitski et al. (US 6,522,616) in view of Glushko et al. (US 6,291,132) and further in view of Bawendi et al. (US 6,774,361).

2.2) Applicants respectfully disagree with the Examiner's opinion for the following reasons.

Applicants observe that Magnitski indicates possible increase of information density of a pit by way of different colors and/or gray levels. In fact, Magnitski discloses that "[t]he information density is defined by the size of the pits in each page 15, which is limited by optical resolution. [...] It is possible to use different dyes with different colors or different frequencies of exciting light for increasing data density. [...] For 20 gray levels and five colors, close to three bytes can be stored per pit" (see column 3, line 58, through column 4, line 9 of Magnitski).

It appears that in Magnitki the colors/gray levels can be different within a single pit. In other words, a single pit can be provided with multiple colors or gray levels. It follows that Magnitski focuses on information density of a single pit.

In view of these considerations, Applicants submit that Magnitski fails to disclose that "*the plurality of distinct data pit locations differ from each other for at least one of said two or more different colors and represent different states*".

2.3) In addition, with the present response, Applicants amend claim 1 to recite that "*a number of said distinct data pit locations is related to a number of said two or more different colors*".

Applicants submit that none of Magnitski, Bawendi and Glushko disclose this additional feature. In other words, Applicants submit that none of Magnitski, Bawendi and Glushko disclose any relation between "*a number of said distinct data pit locations*" and "*two or more different colors*" and thus a combination of Magnitski, Bawendi and Glushko would also not disclose the additional feature.

With regard to Magnitski, Applicants have already shown above that Magnitski focuses on information density of a single pit, and fails to disclose that the pits "*differ from each other for at least one of said two or more different colors*". Moreover, Applicants were not able to locate in Magnitski any relation between "*a number of said two or more different colors*" and "*a number of said distinct data pit locations*".

In relation to Glushko, Applicants note that Glushko discloses cells that differ from each other in the presence or absence of an isomer (see column 13, lines 45-65, of Glushko) or in the amount of an isomer (column 14, lines 8-14, of Glushko).

In relation to Bawendi, Applicants note that Bawendi (see column 5, lines 45-65, column 6, lines 28-48, and column 10, lines 26-42, of Bawendi) discloses analysis of spectral emissions of quantum dots to check for presence of characteristic wavelengths or colors to allow identification or location of a single item or matter of interest or library element (see column 13, lines 24-42) that is associated with such characteristic wavelengths. Applicants further note that Bawendi discloses M^N distinguishable states (see column 9, line 67, and column 10, lines 1-25) and

clarifies that an increase of both the N sizes of quantum dots and the M states (presence or absence of a quantum dot of a certain size, or different intensities of spectral emissions) yields a higher order code of the encoding system, where higher order code is associated with fewer identifiers.

It follows that Barwendi fails to disclose any relation between "*a number of said two or more different colors*" and "*a number of said distinct data pit locations*".

2.4) In view of the above arguments, Applicants respectfully submit that independent claim 1 is patentable over Magnitski in view of Glushko and further in view of Bawendi. Similar arguments apply to independent claim 20 and thus claim 20 is also submitted to be patentable over Magnitski in view of Glushko and further in view of Bawendi.

3. Dependent claims

As to dependent claims 3-6 and 10-11, 14, and 18-19, Applicants have already shown above that the prior art references neither anticipate nor render obvious amended claim 1. Therefore, Applicants submit that the dependent claims are patentable over Magnitski in view of Glushko and further in view of Bawendi.

4. New claims

4.1) As to new claims 21-22, Applicants submit that such new claims 21-22 depend directly from claim 1 and, for at least that reason, they are patentable over Magnitski in view of Glushko and further in view of Bawendi.

In addition, Applicants submit the following considerations.

4.2) In particular, Applicants have already shown that none of Magnitski, Bawendi and Glushko discloses any relation between "*a number of said two or more different colors*" and "*a number of said distinct data pit locations*". It addition, Applicants submit that none of Magnitski, Bawendi and Glushko discloses that "*a number of said distinct data pit locations*", such as "*N/M*" "*data pit*

locations" of claim 21 or "N/L^M" *"data pit locations"* of claim 22, is inversely proportional to *"the number of said two or more different colors"*(given by "*M*").

5. Conclusion

In view of the reasoning provided in sections 2-4 above, reconsideration and allowance of all the claims are respectfully requested.

6. Fees

A one-month extension fee is being paid concurrently with the filing of this paper. The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 50-4194. In particular, if this response is not timely filed, then the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136(a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection herewith may be charged to deposit account no. 50-4194. Please ensure that the Attorney Docket Number is referred to when charging any payments or crediting any overpayments for this case.

I hereby certify that this correspondence is being electronically transmitted on
June 15, 2011 by Jason Varner

/Jason Varner/

(signature of person transmitting)

Respectfully submitted,

/Alessandro Steinfl Reg. No. 56,448/

Alessandro Steinfl
Reg. No. 56,448

STEINFL & BRUNO LLP
301 N Lake Ave Ste 810
Pasadena, CA 91101
(626) 792-0536 voice
(626) 792-1342 facsimile